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# *County of San Diego*

## **CITIZENS' LAW ENFORCEMENT REVIEW BOARD**

555 W BEECH STREET, SUITE 505, SAN DIEGO, CA 92101-2940

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[www.sdcountry.ca.gov/clerb](http://www.sdcountry.ca.gov/clerb)**REGULAR MEETING AGENDA****TUESDAY, APRIL 14, 2015, 5:30 P.M.****San Diego County Administration Center****1600 Pacific Highway, Room 302/303, San Diego, 92101**(Free parking is available in the underground parking garage, on the south side of Ash Street, in the 3-hour public parking spaces.)

Pursuant to Government Code Section 54954.2 the Citizens' Law Enforcement Review Board will conduct a meeting at the above time and place for the purpose of transacting or discussing business as identified on this agenda. Complainants, subject officers, representatives or any member of the public wishing to address the Board on any of today's agenda items should submit a "Request to Speak" form to the Administrative Secretary prior to the commencement of the meeting.

**DISABLED ACCESS TO MEETING**

A request for a disability-related modification or accommodation, including auxiliary aids or services, may be made by a person with a disability who requires a modification or accommodation in order to participate in the public meeting. Any such request must be made to Ana Becker at (619) 238-6776 at least 24 hours before the meeting.

**WRITINGS DISTRIBUTED TO THE BOARD**

Pursuant to Government Code 54957.5, written materials distributed to CLERB in connection with this agenda less than 72 hours before the meeting will be available to the public at the CLERB office located at 555 W Beech Street, Ste. 505, San Diego, CA.

**1. ROLL CALL****2. MINUTES APPROVAL**

- a) Minutes of the March 2015 Regular Meeting (*Attachment A*)

**3. PRESENTATION / TRAINING**

- a) Sheriff's Department Tow Procedures: Lieutenant Herb Taft, Sheriff's Traffic Coordinator

**4. EXECUTIVE OFFICER'S REPORT**

- a) Workload Report - Open Complaints/Investigations Report (*Attachment B*)

**5. NEW BUSINESS**

- a) Board Member Recognition

-continued on next page-

## 6. UNFINISHED BUSINESS

- a) N/A

## 7. BOARD MEMBER COMMENTS

## 8. PUBLIC COMMENTS

- a) This is an opportunity for members of the public to address the Board on any subject matter that is within the Board's jurisdiction. Each speaker should complete and submit a "Request to Speak" form to the Administrative Secretary. Each speaker will be limited to three minutes.

## 9. SHERIFF / PROBATION LIAISON QUERY

## 10. CLOSED SESSION

- a) **Discussion & Consideration of Complaints & Reports:** Pursuant to Government Code Section 54957 to hear complaints or charges brought against Sheriff or Probation employees by a citizen (unless the employee requests a public session). Notice pursuant to Government Code Section 54957 for deliberations regarding consideration of subject officer discipline recommendation (if applicable).

DEFINITION OF FINDINGS	
Sustained	The evidence supports the allegation and the act or conduct was not justified.
Not Sustained	There was <u>insufficient evidence</u> to either prove or disprove the allegation.
Action Justified	The evidence shows the alleged act or conduct did occur but was lawful, justified and proper.
Unfounded	The evidence shows that the alleged act or conduct did not occur.
Summary Dismissal	The Review Board lacks jurisdiction or the complaint clearly lacks merit.

## CASES FOR SUMMARY HEARING (13)

### ALLEGATIONS, RECOMMENDED FINDINGS & RATIONALE

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#### 14-023

1. Misconduct/Discourtesy – San Diego Regional Fugitive Task Force officers stated, “We don’t care,” when informed that the complainant’s daughter was pregnant, and asked to exercise caution when handling her.

Recommended Finding: Summary Dismissal

Rationale: The complainant stated she told members of the San Diego Regional Fugitive Task Force, led by the U.S. Marshals Service, that the complainant’s aggrieved daughter was pregnant, and that they should exercise caution when handling her. An unidentified officer stated, “We don’t care,” but the complainant reported that this statement was not made by Probation Officer 1. Probation Officer 1 recalled hearing the complainant state that the female being arrested was pregnant, but denied making or hearing the statement, “We don’t care.” The Review Board lacks jurisdiction due to CLERB Rules & Regulations 4.1: The Review Board shall have authority to receive, review, investigate and report on citizen complaints filed against peace officers or custodial

officers employed by the County in the Sheriff's Department or the Probation Department. Other members of the Task Force were employed by agencies over whom CLERB has no authority.

2. Misconduct/Discourtesy – San Diego Regional Fugitive Task Force officers denied the complainant's aggrieved daughter water and medication.

Recommended Finding: Summary Dismissal

Rationale: The complainant reported that her daughter requested, but was denied, water and medication. Probation Officer 1 denied that he deprived the aggrieved water and medication. The complainant, and her daughter, also stated the denial was not made by Probation Officer 1. Other members of the Task Force were employed by agencies over whom CLERB has no authority.

3. Illegal Search & Seizure – San Diego Regional Fugitive Task Force officers placed the complainant in handcuffs, and told her to shut-up and sit down.

Recommended Finding: Summary Dismissal

Rationale: The complainant reported that she was handcuffed by an officer, not Probation Officer 1, and did not attribute the statements to Probation Officer 1. Probation Officer 1 denied handcuffing the complainant or making the alleged statements. Other members of the Task Force were employed by agencies over whom CLERB has no authority.

4. Misconduct/Procedure – San Diego Regional Fugitive Task Force officers left a screen door open, creating a hazard for the complainant's dog(s).

Recommended Finding: Summary Dismissal

Rationale: The complainant stated that officers on scene, other than Probation Officer 1, left her screen door open. Probation Officer 1 denied leaving a screen door open. Other members of the Task Force were employed by agencies over whom CLERB has no authority.

5. Misconduct/Discourtesy – San Diego Regional Fugitive Task Force officers made accusations against the complainant that were "unfounded and disrespectful."

Recommended Finding: Summary Dismissal

Rationale: The complainant said the statements were not made by Probation Officer 1, and Probation Officer 1 denied making any such statements. Other members of the Task Force were employed by agencies over whom CLERB has no authority.

6. Misconduct/Procedure – San Diego Regional Fugitive Task Force officers said to the complainant, "No, we did not have to provide anything," when the complainant requested a name and badge number.

Recommended Finding: Summary Dismissal

Rationale: The complainant said the statements were not made by Probation Officer 1, and Probation Officer 1 denied making any such statements. Other members of the Task Force were employed by agencies over whom CLERB has no authority.

7. Misconduct/Procedure – San Diego Regional Fugitive Task Force officers would not assist her and/or did not remove the disabled complainant's handcuffs until her hands were numb.

Recommended Finding: Summary Dismissal

Rationale: The complainant stated she had been handcuffed for 20 minutes and San Diego Regional Fugitive Task Force officers failed to respond to her requests for assistance. The complainant reported that she was handcuffed by another officer, not Probation Officer 1, and that she had not asked Probation Officer 1 to assist or remove the handcuffs. Other members of the Task Force were employed by agencies over whom CLERB has no authority.

8. Misconduct/Intimidation – San Diego Regional Fugitive Task Force officers told her they would shoot her dogs.

Recommended Finding: Summary Dismissal

Rationale: The complainant said the statements were not made by Probation Officer 1, and Probation Officer 1 denied making any such statements. Other members of the Task Force were employed by agencies over whom CLERB has no authority.

9. False Arrest – Probation Officer 1 arrested the complainant's son-in-law, who did not have a warrant and/or did not violate his probation.

Recommended Finding: Action Justified

Rationale: The complainant reported that officers arrested her son-in-law without a warrant, and stated there was no violation of his probation terms. Probation Officer 1 contacted the complainant's son-in-law, and verified his probation status with his assigned Probation Officer. During a search of the room, over which the son-in-law had dominion and control, officers located contraband which was deemed to be a probation violation. Probation Officer 1 escorted the son-in-law to the Probation Department, and he was subsequently booked into jail. The evidence showed the alleged act or conduct did occur, but was lawful, justified and proper.

10. Misconduct/Procedure – Probation Officer 1 failed to provide a list of, and/or receipt for confiscated items taken from the complainant's home.

Recommended Finding: Sustained

Rationale: The complainant stated she did not receive any documents identifying confiscated items taken from her home. Officers reportedly observed contraband items, including: two knives, an empty pistol holder, a glass water pipe, and a green leafy substance, in the room occupied by the complainant's son-in-law. Probation Officer 1 transported the probationer to his assigned probation officer and turned over one knife and the empty pistol holder. The assigned probation officer prepared the required Contraband Receipt, documenting one knife and the empty pistol holster placed. Probation Department Policies and Procedures 16.14.2, Handling Contraband / Evidence, require the completion of a Contraband Receipt listing all items and locations where the contraband was found; original receipts are to be left at the scene. Probation Officer 1 did not prepare the required Contraband Receipt at the scene, in violation of Department Policies and Procedures. The evidence supported the allegation and the act or conduct was not justified.

11. Misconduct/Discourtesy – San Diego Regional Fugitive Task Force officers said to her son-in-law, "Stupid...you're just stupid!"

Recommended Finding: Summary Dismissal

Rationale: The complainant said the statements were not made by Probation Officer 1, and Probation Officer 1 denied making any such statements. Other members of the Task Force were employed by agencies over whom CLERB has no authority.

12. Excessive Force – San Diego Regional Fugitive Task Force officers grabbed and pulled the complainant's pregnant daughter out of bed and onto the floor, bruising her shoulder.

Recommended Finding: Summary Dismissal

Rationale: The complainant stated that her aggrieved daughter was forcefully removed from her bed and sustained bruises to her shoulder. The aggrieved stated that her arresting officer, a U.S. Marshal, pulled her from the bed. The arresting officer was employed by an agency over whom CLERB has no authority.

13. Misconduct/Procedure – Probation Officer 1 and/or San Diego Regional Fugitive Task Force officers damaged the complainant's home and/or property.

Recommended Finding: Not Sustained

Rationale: The complainant stated that officers damaged her property: to wit, window frames, window screens, security-door screen, and a fence. Probation Officer 1 denied causing any damage to the complainant's home

and/or property. Other members of the Task Force were employed by agencies over whom CLERB has no authority. There was insufficient evidence to either prove or disprove the allegation.

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#### **14-025**

1. Excessive Force – Deputy 2 “body-slammed, busted his head into a wall, and used his knee to neck-strangle” the complainant.

Recommended Finding: Action Justified

Rationale: The complainant stated that Deputy 2 pushed his face against the wall, “body-slammed him, busted his head onto the concrete floor, and used his knee to neck-strangle” him while being processed for fingerprints. Deputy 2 reported that the complainant failed to follow direction during the fingerprinting process. Although the complainant initially complied, he became agitated, used expletives toward the deputy, and turned toward and away from the deputy, rather than face the wall as ordered. Deputy 2 stated he decided to place the complainant in handcuffs because of the reported assaultive behavior during his arrest, and the verbal aggression / non-compliant behavior he demonstrated during the Intake Process. Deputy 2 used department approved hand controls to gain control and take the complainant to the ground. Video surveillance showed that the complainant actively resisted Deputy 2’s actions, resulting in a use of force. The amount of force reported and observed was necessary and reasonable to gain control of the complainant, and was in compliance with Department Use of Force Guidelines, Addendum F, and Detentions policies and procedures I.89, Use of Force. The evidence showed the alleged act did occur, but was lawful, justified and proper.

2. Excessive Force – Deputy 1 punched the complainant multiple times in the head.

Recommended Finding: Action Justified

Rationale: The complainant stated that he was punched multiple times in the head. Deputy 1 reported he investigated the source of yelling outside of Intake Control, when he saw Deputy 2 struggling with the complainant. The complainant failed to follow deputies’ orders, which led Deputy 1 to believe that he had assaulted Deputy 2 with the intention to seriously harm him. Deputy 1 directed the complainant to stop resisting, and then delivered two fist strikes to the left side of the complainant’s head/face, resulting in compliance. Sheriff’s Medical personnel responded and treated him at the scene, and he was subsequently transported to UCSD Medical Center for further treatment. Video evidence corroborated deputies’ reports for their use of hand controls and fist strikes to gain compliance. The amount of force reported and observed was necessary and reasonable to gain control of the complainant, and was in compliance with Department Use of Force Guidelines, Addendum F, and Detentions policies and procedures I.89, Use of Force. The evidence showed the alleged act did occur, but was lawful, justified and proper.

3. Misconduct/Retaliation – Deputy 2 assaulted the complainant because of a “cop-killer label”.

Recommended Finding: Action Justified

Rationale: The complainant believed he was assaulted because he, “tried to kill cops,” during his arrest. The complainant had been arrested by another law enforcement agency for a series of offenses, which included violation of Penal Code §§148(d)-Attempt to Disarm a Police Officer, 69-Resisting a Police Officer with Violence, and 243(c)(2)-Battery on a Police Officer, and 422-Criminal Threats. Deputies processing inmates into San Diego detention facilities are aware of the charges filed against complainants, particularly those involving assaultive behavior. Deputy 2 stated that charges filed against the complainant did not influence the force used to control him. The force used was due to the complainant’s behavior, failure to comply with direction, and resistance to place him in handcuffs. The evidence showed the alleged act did occur, but was lawful, justified and proper.

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#### **14-026**

1. Misconduct/Discourtesy – Deputy 1 stated to the complainant’s cellmate, “Put a fucking shirt on,” and/or “Go to your fucking cell,” or used words to that effect.

Recommended Finding: Not Sustained

Rationale: The complainant reported that Deputy 1 stated to his cellmate, “Put a fucking shirt on,” and/or “Go to your fucking cell,” or used words to that effect. Deputy 1 reported that he was conducting a security check in the module when he observed the complainant’s cellmate in the Dayroom not wearing a shirt. Deputy 1 gave the cellmate a lawful order when he instructed him to put a shirt on while in the Dayroom. Detentions Facility Inmate Rules and Regulations require inmates in Sheriff’s custody to wear a shirt while they are out of their cells. Deputy 1 reported that he gave instructions to the complainant’s cellmate without use of expletives. The entire incident was captured on surveillance video, however, there is no audio recording of this alleged statement, and therefore insufficient evidence to either prove or disprove the allegation.

2. Excessive Force- Deputy 1 “hit” the complainant on the back of his head.

Recommended Finding: Action Justified

Rationale: The complainant alleged that Deputy 1 “hit” him on the back of his head and threw him to the ground during an incident involving multiple inmates and deputies. Deputy 1 was involved in an altercation with other inmates, when the complainant approached him in a combative stance. Deputy 1 responded by striking the complainant with his fists and taking him to the ground, where he was able to control and restrain the complainant. Deputy 1 detailed in his Deputy Reports the rationale for the employment of department approved Use of Force control compliance techniques, which included: closed fist strikes, empty hand control, and using body weight in order to gain control of an assaultive inmate. Detentions Policy I.89, Use of Force, allows detentions deputies to use any physical force necessary and objectively reasonable in the defense of self or others, and to overcome resistance. Surveillance video of this incident was available and captured the entire incident. The video showed the actions of the complainant, other inmates and Deputy 1, and demonstrated that Deputy 1 committed the act, and his actions were lawful, justified and proper.

3. Excessive Force- Deputy 1 threw the complainant to the ground.

Recommended Finding: Action Justified

Rationale: See Rationale #2

4. Misconduct/Discourtesy - Deputy 1 stated to the complainant, "Put your fucking head on the ground" or used words to that effect.

Recommended Finding: Not Sustained

Rationale: The complainant alleged that Deputy 1 stated to him, “Put your fucking head on the ground," or used words to that effect. Deputy 1 reported that he gave several instructions to multiple inmates during this force incident, and did not recall using the expletive alleged by the complainant, while giving these instructions. The entire incident was captured on surveillance video, however, there is no audio recording of this alleged statement, and therefore insufficient evidence to either prove or disprove the allegation.

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## **14-031**

1. Excessive Force - Deputy 1 threw the complainant against his vehicle while choking her neck. He also slammed her knee against the car door and excessively squeezed her arm.

Recommended Finding: Action Justified

Rationale: The handcuffed complainant reported that while being transferred, she remained quiet and displayed no threatening behavior, but upon arrival, Deputy 1 removed her from the vehicle with the use of "extreme excessive force." Deputy 1 responded to a domestic related incident, and determined the complainant was unable to care for her own safety. The complainant's Arrest Report documented a high level of intoxication, exhibited by a strong odor of an alcoholic beverage about her breath and person, red and watery eyes with

droopy eyelids, and slow, slurred and repeated speech. Sheriff's medical records also documented that the complainant told them she had consumed up to 10 beers. Deputy 1 reported using verbal commands and hand control when the complainant refused to comply with his directives. As she was removed from the patrol vehicle, the complainant went limp, forcing the deputy to support her weight. The complainant reportedly became irritated and escalated from verbal and physical noncompliance to exposing clenched teeth. She screamed that she was going to sue Deputy 1, and that he tried to rape her. The departmental approved techniques deployed by Deputy 1 were necessary to control and minimize further force against an uncooperative and inebriated prisoner. Video evidence supported Deputy 1's version of these events, as opposed to the complainant's. The evidence showed that the minimal force that did occur, was lawful, justified and proper.

2. Misconduct/Procedure - Deputy 1 refused to provide the complainant with his badge number.

Recommended Finding: Action Justified

Rationale: The complainant said the officer refused to give her his badge number, but she then provided his last name and work station. Deputy 1 relayed that the complainant did indeed request his personal information time and time again, which he provided verbally until it became apparent that her level of intoxication impaired her ability to retain the requested information. Deputy 1 also explained that the complainant was provided written documentation of his personal information on a Safekeeping form in her property bag. Sheriff's Policy & Procedure states in part that deputies shall furnish their name and identification number to any person requesting that information. The evidence showed that Deputy 1's verbal and written notifications were lawful, justified and proper.

3. Misconduct/Discourtesy - Deputy 1 used "swear words about the complainant's mentality and well-being."

Recommended Finding: Not Sustained

Rationale: The complainant reported that Deputy 1 used unspecified "swear" words about her mentality and well-being, but then offered no further descriptive factors. Deputy 1 denied using any profanities or threatening the complainant's well-being. Deputy 1 maintained that he provided the complainant with clear instructions to comply with orders so that no force would be utilized against her. Video surveillance did not include audio, so there was insufficient evidence to either prove or disprove this allegation.

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## **14-033**

1. Excessive Force – Deputy 2 pushed the complainant into a window causing swelling from his elbow to his fingers.

Recommended Finding: Action Justified

Rationale: The complainant said that he questioned Deputy 2 about the state of his cell following a random cell search, and Deputy 2 responded by pushing him into a window. Deputy 2 stated the complainant refused to return to his cell and lock down, which required him to forcefully push him into the cell. Video evidence showed that the complainant physically resisted Deputy 2's efforts to escort him into his cell, necessitating the use of force. The amount of force reported and observed was necessary and reasonable to return the complainant to his cell, and was in compliance with Department Use of Force Guidelines, Addendum F, and Detentions policies and procedures I.89, Use of Force. The evidence showed the alleged act did occur, but was lawful, justified and proper.

2. Misconduct/Discourtesy – Deputy 2 yelled “Get the fuck back in your cell,” or words to that effect.

Recommended Finding: Not Sustained

Rationale: The complaint stated that Deputy 2 used profanities while ordering him to return to his cell. Deputy 2 denied making any obscene remarks to the complainant during the encounter. Deputy Layoun stated that he did not hear Deputy 2 make such a statement. However, there was no audio recording of the incident to support or refute the statement. There was insufficient evidence to either prove or disprove the allegation.

3. Misconduct/Procedure – Deputy 1 refused to remove the complainant’s handcuffs so medical staff could evaluate his injury properly.

Recommended Finding: Action Justified

Rationale: The complainant stated that he could not receive a proper medical evaluation because Deputy 1 would not remove his handcuffs. Deputy 1 stated that inmates usually require only one deputy escort to medical; however, the complainant was escorted by two deputies because of his uncooperative behavior. Deputy and medical reports documented that the complainant remained in handcuffs during the evaluation because of his uncooperative behavior. The evidence showed that the act did occur, but was lawful, justified and proper.

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## **14-038**

1. Discrimination/Racial – Deputy 1 called the complainant a “Nigger.”

Recommended Finding: Not Sustained

Rationale: The complainant alleged that Deputy 1 called him a “Nigger” while instructing him to put on a shirt while in the Dayroom. Deputy 1 denied using this racial epithet. The complainant’s cellmate was nearby at the time of this contact, and reported that Deputy 1 yelled at the complainant, “Put on your fucking shirt,” but did not include in his statement, the racial epithet alleged. The entire incident was captured on surveillance video; however, there is no audio recording of this alleged statement, and therefore insufficient evidence to either prove or disprove the allegation.

2. Misconduct/Discourtesy – Deputy 1 stated to the complainant, “Put your fucking shirt on,” or used words to that effect.

Recommended Finding: Not Sustained

Rationale: The complainant reported that Deputy 1 stated to him, “Put a fucking shirt on,” or used words to that effect. Deputy 1 reported that he did order the complainant to put on a shirt, per inmate rules and regulations, but denied using the word “fucking” in his instructions to the complainant. Deputy 1 was conducting a security check in the module, when he observed the complainant in the Dayroom not wearing a shirt. He gave the complainant a lawful order when he instructed him to put a shirt on, but denied using an expletive while giving this order. The entire incident was captured on surveillance video, however, there is no audio recording of this alleged statement, and therefore insufficient evidence to either prove or disprove the allegation.

3. Misconduct/Discourtesy – Deputy 1 stated to the complainant, “Get in your fucking cell,” or used words to that effect.

Recommended Finding: Not Sustained

Rationale: The complainant reported that Deputy 1 stated to him, “Get in your fucking cell,” or used words to that effect. Deputy 1 reported that he ordered the complainant to lock down in his cell after the complainant refused to follow instructions, but denied using the word “fucking” in his order to the complainant. The entire incident was captured on surveillance video, however, there is no audio recording of the conversation between Deputy 1 and the complainant, leaving insufficient evidence to either prove or disprove the allegation.

4. Excessive Force – Deputy 1 “punched” the complainant.

Recommended Finding: Action Justified

Rationale: The complainant alleged that Deputy 1 “punched” him during an incident involving multiple inmates and deputies. Deputy 1 was conducting a security check in the module when he observed the complainant in the Dayroom not wearing a shirt, and instructed him to put one on. The complainant reportedly responded calling Deputy 1 profane names, as he stepped inside of his cell to retrieve a shirt. Deputy 1 confronted the complainant and ordered him to lockdown in his cell. Deputy 1 and the complainant both stated that the complainant resisted the order, and per Deputy 1, took a combative stance toward him. Deputy 1 stated that he feared for his safety,



and in order to control the complainant and neutralize him as a threat, he attempted to pull the complainant to the ground. The complainant resisted, and struck Deputy 1 multiple times in the face. Deputy 1 countered these strikes with two closed fist strikes of his own, in order to gain control of an assaultive inmate. Surveillance video captured this incident and corroborated the use of force as described by Deputy 1. Detentions Policy I.89, Use of Force, allows detentions deputies to use any physical force necessary and objectively reasonable in the defense of self or others, and to overcome resistance. Deputy 1 utilized a department approved Use of Force control compliance technique, and his actions were lawful, justified and proper.

5. Excessive Force – Deputies 2, 3, 4 and 5 “jumped on the complainant’s back” and began punching and kicking him.

Recommended Finding: Action Justified

Rationale: The complainant alleged that Deputies 2, 3, 4 and 5 “jumped on his back” and began punching and kicking him during an incident involving multiple inmates and deputies. Deputies 2, 3, 4 and 5 detailed in their Deputy Reports, the employment of several department approved Use of Force control compliance techniques, which included: closed fist strikes, knee strikes, baton strikes and using body weight, in order to gain control of an assaultive inmate. Detentions Policy I.89, Use of Force, allows detentions deputies to use any physical force necessary and objectively reasonable in the defense of self or others, and to overcome resistance. Surveillance video captured this incident and corroborated the use of force as described by deputies. The video showed the actions of the complainant, other inmates and involved deputies, and demonstrated that Deputies 2, 3, 4 and 5 committed the acts, but their actions were lawful, justified and proper.

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#### **14-111**

1. Sexual Harassment – PO 1 “grabbed” the complainant’s penis while conducting a search of his person.

Recommended Finding: Action Justified

Rationale: During a face to face meeting with his probation officer, the complainant alleged that PO 1 “grabbed” his penis while conducting a 4<sup>th</sup> waiver search of his person. The complainant is formally supervised by the San Diego County Probation Department, assigned to the Adult Field Services, High Risk Sex Offender Unit. As such, he is subject to a 4<sup>th</sup> waiver search provision that allows his probation officer to search his home, vehicle, personal property and person, at any time or for any reason. PO 1 denied that she grabbed the complainant’s penis while searching him, detailing the search method utilized. PO 1’s supervisor was present during the meeting and the search, and denied that she observed PO 1 conduct her search in an inappropriate manner. The supervisor further stated that PO 1 conducted herself with the utmost professionalism throughout the appointment, and reported no concerns with PO 1’s search techniques or her interactions with the complainant. Given the complainant’s credibility issues, resulting from his unsupported account of interactions with PO 1 and her supervisor, and his implausible excuses for his probation violations, the preponderance of evidence showed that PO 1 searched the complainant, but her actions were lawful, justified and proper.

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#### **14-119**

1. Misconduct/Procedure – Deputy 1 failed to transport the complainant to Family Court for a custody hearing, resulting in loss of custody and visitation rights.

Recommended Finding: Action Justified

Rationale: The complainant alleged that Deputy 1 failed to transport him to Family Court hearings, denying him the opportunity to advocate for custody rights in court. As a result, he contended that he lost custody and visitation rights to his child. Detentions Policy N.5, Access to Courts/Attorneys/ Legal Advice, requires that inmates complete Form J-70, Inmate Request for Court Appearance, when requesting to appear in court on a local matter for which they are not in custody. The complainant was not in custody for the matters being addressed in Family Court, and confirmed that he had not submitted the required paperwork for transportation services. Prisoner transportation personnel had arranged and transported the complainant to four previous court

hearings related to his criminal charges, but were not under any obligation to provide the complainant transportation to court on civil matters, without submission of the proper request forms or a court order. The evidence showed that the department's actions occurred, but were lawful, justified and proper.

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#### **14-136**

1. Misconduct/Procedure – Deputy 4 pursued a stolen vehicle into a crowded residential area.

Recommended Finding: Summary Dismissal

Rationale: The complainant requested that this investigation be terminated and the complaint withdrawn. Per CLERB Rules & Regulations 5.7, Withdrawal of Complaints, a complaint may be withdrawn from further consideration at any time by a written notice of withdrawal signed and dated by the complainant. The effect of such withdrawal will normally be to terminate any further investigation of the complaint of misconduct, unless the Executive Officer or a Review Board member recommends that the investigation continue and the Review Board, in its discretion, concurs.

2. Misconduct/Procedure – Deputy 2 did not return telephone calls to the victim of a crime.

Recommended Finding: Summary Dismissal

Rationale: See Rationale #1

3. Misconduct/Procedure – Deputy 1 did not provide proper information to the victim of a crime.

Recommended Finding: Summary Dismissal

Rationale: See Rationale #1

4. Misconduct/Procedure – Deputy 3 was unclear about departmental policy for a high speed pursuit.

Recommended Finding: Summary Dismissal

Rationale: See Rationale #1

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#### **15-006**

1. Misconduct/Discourtesy – Deputy 1 stated to the complainant that his call for law enforcement involvement was a “stupid call,” or used words to that effect.

Recommended Finding: Sustained

Rationale: The complainant alleged that Deputy 1 stated to him, that his call for law enforcement involvement was a “stupid call,” or used words to that effect. Deputy 1 admitted making this statement, while Deputy 2 reported hearing Deputy 1 state that the complainant's call for law enforcement involvement was “ridiculous.” Deputy 1 violated Sheriff's Policy 2.4, Unbecoming Conduct, which requires that deputies conduct themselves in such a manner as to reflect most favorably on the Department. The evidence supports the allegation, and the conduct was not justified.

2. Misconduct/Discourtesy - Deputy 1 stated to the complainant that he needed to “man up” in dealing with his wife, or used words to that effect.

Recommended Finding: Sustained

Rationale: The complainant alleged that Deputy 1 stated to him that he needed to “man up” in dealing with his wife, or used words to that effect. Deputy 1 reported that he stated something to the effect of, “the complainant needed to be a man,” confirming the allegation against him. Sheriff's Policy 2.22, Courtesy, prohibits employees from using insolent language during the performance of their duties. Moreover, Sheriff's Policy 2.4, Unbecoming Conduct, requires that deputies conduct themselves in such a manner as to reflect most favorably

on the Department. Deputy 1's admission supports the allegation and the act or conduct was not justified.

3. Misconduct/Discourtesy – Deputy 1 stated to the complainant that he was a “Pussy” for calling law enforcement to his home over a domestic violence issue.

Recommended Finding: Sustained

Rationale: The complainant alleged that Deputy 1 called him a “Pussy” for calling law enforcement to his home over a domestic violence issue with his wife. Deputy 1 stated that he did not recall making this statement toward the complainant, but did not refute making the statement. While there were no witnesses in or around the room when this alleged statement was made, nor was there an audio recording of the statement, there is a preponderance of evidence supporting the complainant's allegation, particularly given Deputy 1's admission of insolence in two other discourtesy allegations against him. Preponderance weighs the balance of probabilities and the likelihood of a statement being true or not true. The preponderance of evidence in this case demonstrated that Deputy 1 violated Sheriff's Policy 2.22, Courtesy, which prohibits employees from using insolent language during the performance of their duties; and Sheriff's Policy 2.4, Unbecoming Conduct, which requires that deputies conduct themselves in such a manner as to reflect most favorably on the Department. The evidence supported the allegation and the conduct was not justified.

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## **15-012**

1. Criminal Conduct – Deputy 1 refused to abide by a court order to release the complainant's property.

Recommended Finding: Action Justified

Rationale: The complainant said that a judge signed a Court Order on October 30, 2014, for the release of his property, but Deputy 1 refused to release the property to him. On February 17, 2014, the complainant's mobile phone and \$120 in cash were seized as evidence from his arrest. Deputy 1 authorized release of the phone on December 4, 2014, and the money on January 28, 2015, when he first saw the Court Order, and in accordance with Sheriff's Policy & Procedure 6.29: Property Control System. The Property Release Form advised that one must contact the indicated facility for an appointment, and failure to claim within 90 days will result in disposal according to law. The evidence showed the actions that occurred were lawful, justified and proper.

2. Misconduct/Procedure – Deputies 1 and 2 did not respond to the complainant's numerous telephone calls concerning the return of his property.

Recommended Finding: Action Justified

Rationale: The complainant said he left numerous phone calls requesting his property, the entire month of December and part of January, but his calls were never returned. Deputy 1 reported that he spoke with the complainant at least twice and provided the necessary information for him to obtain his property at Main Evidence as listed on a Property Release Form. Furthermore, Deputy 2 exchanged email correspondence with the complainant with instructions on how to obtain his property. The written and verbal information communicated to the complainant were sufficient and there was no violation of policy concerning this matter.

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## **15-019**

1. Misconduct/Discourtesy – Deputy 1 was “extremely rude and discourteous” to the complainant while conducting a traffic stop.

Recommended Finding: Not Sustained

Rationale: The complainant alleged that Deputy 1 was “extremely rude and discourteous” to her while conducting a traffic stop. Deputy 1 reported that he contacted the complainant after observing her using her cell phone while driving. This is a violation of VC§ 23123, Use of Cell Phone, which prohibits a person from operating a motor vehicle, using a wireless telephone that does not allow for hands-free use. Deputy 1 denied being rude or discourteous during this contact with the complainant, reporting that he approached this particular

traffic stop with the same level of courtesy, respect and professionalism he does with all of his traffic stops. Deputy 1 further stated that he did not raise his voice, speak in a condescending manner, nor use any profanity, or argue with the complainant at any time during this contact. There is no audio recording of this traffic stop, leaving insufficient evidence to either prove or disprove the allegation.

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## **15-023**

1. Illegal Search & Seizure – Deputy 1 searched the complainant’s personal belongings.

Recommended Finding: Action Justified

Rationale: The complainant was bicycling and did not have her ID, but upon request, she provided her full and nicknames, as well as, her address and DOB. Deputy 1 reported that he stopped and cited the complainant for her failure to stop at a stop sign. Deputy 1 denied searching the complainant’s belongings, but instead had the complainant check/go through her bag/fanny pack, as he watched. Audiotape evidence corroborated that Deputy 1 explained the search and the complainant consented. Case law allows for a limited search for identification, when contacting a person for the purpose and possibility of issuing a citation. The evidence showed that the alleged act or conduct did occur, but was lawful, justified and proper.

2. Misconduct/Procedure – Deputy 1 photographed the complainant with a helmet and sunglasses on, and then fingerprinted her.

Recommended Finding: Action Justified

Rationale: The complainant said that the officer photographed her wearing a helmet and sunglasses, which defeated the purpose of attaining a recognizable face. Deputy 1 reported that dispatch was unable to find the complainant in their system. Since the complainant did not have identification, and he was unable to confirm her identity through her name and DOB, he acquired a thumbprint and photograph for identification/court purposes. Although wearing a helmet and glasses, the complainant’s face is clearly visible and identifiable in the acquired photograph. Again, case law allows for these actions, and the evidence showed that the alleged act or conduct did occur, but was lawful, justified and proper.

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*End of Report*